

David J. Schmitt (0055550)  
Attorney for Defendant

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

**UNITED STATES OF AMERICA,**

Civil Action No. C-1-00637

Plaintiff,

(Judge Dlott)

vs.

**DANIEL GREEN, et al.,**

**RESPONSE OF DEFENDANT THE  
ESTATE OF MAURICE GREEN TO  
THE COURT'S SHOW CAUSE  
ORDER**

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Defendant.

Now come Defendants the Estate of Maurice Green and Daniel Green, in his capacity as the personal representative of the Estate of Maurice Green ("the Estate"), and submits this response to the Court's Show Cause Order.

On October 28, 2002, the United States filed a Motion for Summary Judgment in regard to its claims against the Estate. To date, the Estate has not filed a response to this Motion. On July 8, 2004, this Court issued an Order to the Estate to show cause why judgment should not be granted against it.

The Estate does not wish the Court to believe that it has disregarded this Court or the Rules of Civil Procedure. Neither does it wish the Court to interpret the Estate's failure to respond to the government's Motion for Summary Judgment as an admission of liability. The Estate's silence is rather a simple reflection of the resources available to it. In short, the Estate has no assets. Documentation was provided to the United States long ago showing that the Estate had a negative net worth. Indeed, monies had to be

put into the Estate in order for it to be closed. To date, the considerable costs of defending the Estate have been borne by the personal representative of the Estate, Daniel Green. Given that the Estate has no funds to continue its defense, and based on the very significant costs which would be necessary to oppose the government's Motion, as well as to continue this litigation, the Estate has no alternative but to allow judgment to be entered against it.

Therefore, while this response should not be taken as an admission of liability, the Estate of Maurice Green must regretfully state that it is unable to respond to the United States' Motion for Summary Judgment.

Respectfully submitted,

/s/ David J. Schmitt

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Trial Attorney for Defendants the Estate of  
Maurice Green and Daniel Green, in his  
capacity as the personal representative of the  
Estate of Maurice Green

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing was served electronically on this 9<sup>th</sup> day of August, 2004, upon the following:

Jeffrey Spector, Esq.  
Environmental Enforcement Section  
Environmental and Natural Resources Division  
U.S. Department of Justice  
Ben Franklin Station, P.O. Box 7611  
Washington, D.C. 20044; and

David A. Owen, Esq.  
GREENBAUM, DOLL & McDONALD  
333 West Main Street  
Suite 1400  
Lexington, Kentucky 40507.

/s/ David J. Schmitt  
David J. Schmitt